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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARK RYAN SMITH,  
Plaintiff,  
v.  
CITY OF OAKLAND,  
Defendant.

Case No. [17-cv-06260-MEJ](#)

**ORDER TO SHOW CAUSE**

Plaintiff Mark Ryan Smith and/or his counsel Donald Charles Schwartz have failed to comply with numerous Court orders:

1. An initial case management conference (“CMC”) was scheduled for February 1, 2018, and a joint CMC statement was due January 25, 2018. No CMC statement was filed. Dkt. No. 21.
2. On January 30, 2018, Mr. Schwartz failed to appear at a telephonic scheduling conference before Judge Sallie Kim. Dkt. No. 22.
3. Mr. Schwartz did not respond to Judge Kim’s Order to Show Cause (Dkt. No. 23), causing Judge Kim to impose monetary sanctions on him personally (Dkt. No. 27).
4. Mr. Schwartz did not appear at the February 23, 2018 telephonic scheduling conference before Judge Kim. Dkt. No. 28.
5. The Court denied the parties’ stipulation to stay proceedings pending a settlement conference “[g]iven Plaintiff’s counsel’s failure thus far to participate in the settlement process[.]” Dkt. No. 26 at 1. The Court rescheduled the initial CMC for March 1, 2018 and ordered the parties to file a joint CMC statement by February 22, 2018. *Id.* As of the date of this Order, no CMC statement has been

filed. *See* Docket.

The Court VACATES the March 1, 2018 CMC. In light of Plaintiff's repeated noncompliance with Court orders and deadlines, the Court ORDERS Plaintiff to show cause why this case should not be dismissed for failure to prosecute and failure to comply with court deadlines. Plaintiff shall file a declaration by **March 2, 2018**. Notice is hereby provided that failure to file a written response will be deemed an admission that Plaintiff does not intend to prosecute. Sanctions, including but not limited to dismissal of the case without prejudice and/or monetary sanctions, may be imposed against Plaintiff and/or his counsel personally. Thus, it is imperative that the Court receive a written response by the deadline above.

## IT IS SO ORDERED.

Dated: February 23, 2018

MARIA-ELENA JAMES  
United States Magistrate Judge